HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 859 (MS) of 2004

Smt. Shanti Devi
W/o Sh. Hari Singh
R/o House No. M-23,
IRI Colony Roorkee, Haridwar
And other. ..... Petitioners

VS

Smt. Santosh Devi
W/o Late Sh. Mam Raj Agrawal
R/o House No. 1, 48 Civil Lines
Near Kajri Restauratn Roorkee
Haridawar and other. ..... Respondents.

Counsel for the petitioner Sh. Pankaj Miglani
Standing Counsel for the respondents.

Dated:- 15-9-2004

Hon'ble Rajesh Tandon J.

Heard Sh. Pankaj Miglani learned counsel for the petitioner and Standing Counsel for the respondents.

By the present writ petition the petitioners have prayed for quashing the order dt. 1-7-2004.

Briefly stated that the petitioners have filed an application for claim under Section 10 of the Workmen's Compensation Act.

In the meantime due to certain formal defects, the petitioners have filed an application for withdrawl of the case with liberty to file another claim petition and the said application has been rejected under order 23 Rule 1 of the Code of Civil Procedure by passing the impugned order dt. 1-7-2002.

Counsel for the petitioners have prayed that he may be allowed to withdraw the application with the liberty to file a fresh application.

The Learned Workmen's Compensation Commissioner has passed the order on 1-7-2004 that he has not given the ground of withdrawl and in view of that he cannot be permitted to file a fresh application.

I find that since due to lack of complete facts, the said application has been rejected.

In view of the aforesaid facts the liberty is given to the petitioners to move a fresh application after giving the complete details. The said application shall be disposed on in accordance with law.

Subject to the aforesaid observations, the writ petition is disposed of. No order as to costs.

Dated:- 15-9-2004 **(RAJESH TANDON J.)**

M.K.